United States Bankruptcy Court Southern District of Texas

ENTERED

March 01, 2024 Nathan Ochsner, Clerk

IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

In re:	§	Case No.: 23-90147
	§	(Jointly Administered)
	§	
MOUNTAIN EXPRESS OIL COMPANY,	§	Chapter 7
et al. ¹	§	
	§	
Debtors.	§	

STIPULATION AND AGREED ORDER REGARDING FINAL APPLICATION OF AXINN, VELTROP & HARKRIDER LLP FOR ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES INCURRED AS SPECIAL ANTITRUST COUNSEL TO THE DEBTORS FOR THE PERIOD FROM MAY 26, 2023 THROUGH AUGUST 16, 2023

[Related to Docket No. 1725]

Janet S. Northrup, the Chapter 7 Trustee (the "Trustee") of the jointly administered bankruptcy estates of Mountain Express Oil Company and affiliated debtors (collectively, the "Debtors") in the above-styled jointly administered chapter 7 cases and Axinn, Veltrop & Harkrider LLP ("Axinn"), by their undersigned counsel, hereby enter into this stipulation and agreed order (the "Agreed Order") regarding the Final Application of Axinn, Veltrop & Harkrider LLP for Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred as Special Antitrust Counsel to the Debtors for the Period from May 26, 2023 through August 16, 2023 (the "Application"), as set forth below.

RECITALS

WHEREAS, on April 25, 2023, the Court entered the Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507, Bankruptcy Rules 2002, 4001, 6004 and 9014, and Local Rule 4001-1 (I) Authorizing the Debtors to Use Cash Collateral and Obtain Post-Petition Financing, (II)

¹ A complete list of each of the Debtors in these Chapter 7 Cases may be obtained on the website of the Debtors' claims and noticing agent at www.kccllc.net/mountainexpressoil.

Granting Liens and Providing Super-Priority Administrative Expense Status, (III) Granting Adequate Protection, and (IV) Granting Related Relief (the "Final DIP Order") [Docket No. 332]. The Final DIP Order included a "Carve-Out" from the DIP Lenders' collateral for fees and expenses incurred by certain chapter 11 professionals up to the amounts contained in the approved budget. Pursuant to the terms of the Final DIP Order, the Carve-Out funds for the chapter 11 professionals were to be held in escrow by Pachulski Stang Ziehl & Jones LLP ("Pachulski"), former counsel for the above-captioned Debtors.

WHEREAS, on October 3, 2023, Pachulski filed the Motion Of Former Counsel For The Debtors For Entry Of An Order Authorizing The Payment Of Estate Professionals' Fees Pursuant To Final Dip Order And Professional Fee Order (the "Reserve Distribution Motion") [Docket No. 1519]. According to the Distribution Motion, Pachulski is currently holding \$357,285.70 in escrow for the benefit of Axinn.

WHEREAS, on November 15, 2023, Axinn filed its Application [Docket No. 1725] seeking final allowance of \$158,255.00 as fees for services rendered and \$0.00 as reimbursement of expenses for the period from May 26, 2023 through August 16, 2023.

WHEREAS, the Court entered an Order Extending Scheduling Deadlines and Rescheduling of Electronic Hearing in Connection with Chapter 11 Final Fee Applications and Reserve Distribution Motion [Docket No. 1926], which set deadline to file objections to the Application and the Reserve Distribution Motion for the Trustee on February 29, 2024.

WHEREAS, the Trustee and Axinn desire to resolve any and all issues and objections to the Application.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, AND UPON APPROVAL BY THE COURT OF THIS STIPULATION AND ORDER, IT IS SO ORDERED AS FOLLOWS:

- 1. The above recitals are incorporated by reference herein with the same force and effect as if full set forth hereinafter.
- 2. The Court has jurisdiction over the Application pursuant to 28 U.S.C. §§ 157 and 1334.
- 3. The consideration of the Application is a core proceeding pursuant to 28 U.S.C. §157.
- 4. Notice of the Application was appropriate and no other or further notice of the Application need be given.
- 5. Axinn's Application is given final approval in the reduced amount of \$146,208.60 in professional and paraprofessional fees for the period covered by the Application.
- 6. Within three (3) business days of entry of this Agreed Order, Pachulski shall transfer by wire pursuant to written wire transfer instructions provided to Pachulski by the Trustee, \$357,285.70 which represents all amounts Pachulski is holding in its trust account for the benefit of Axinn pursuant to the terms of the Final DIP Order.
- 7. Within ten (10) days of receipt of the funds from Pachulski, the Trustee must pay Axinn \$146,208.60 as final payment of the Application.
- 8. Upon payment of Axinn, the remaining balance of \$211,077.10 shall no longer be considered part of the Carve-Out as defined in the Final DIP Order.

- 9. Notwithstanding anything in the Bankruptcy Code or the Bankruptcy Rules to the contrary, the terms and conditions of this Agreed Order shall be effective and enforceable immediately upon entry.
- 10. This Court retains exclusive jurisdiction and power with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: March 01, 2024

Chief United States Bankruptcy Judge

AGREED AS TO FORM AND CONTENT:

AXINN, VELTROP & HARKRIDER, LLP

/s/ Jeny M. Maier

Jeny M. Maier 1901 L Street, NW

Washington, DC 20036

Telephone: (202) 469-3523 Facsimile: (202) 917-4701

imaier@axinn.com

Former Special Antitrust Counsel to the Debtors

McCLOSKEY ROBERSON WOOLLEY PLLC

/s/ Thomas A. Woolley, III

Thomas A. Woolley, III Texas Bar No. 24042193

190 T.C. Jester Blvd., Suite 400

Houston, Texas 77007

Telephone: (713) 337-3900

Fax: (713) 337-3915 rwoolley@mrwpllc.com

Special Counsel for Janet Northrup, Chapter 7 Trustee

AGREED (as to paragraph 6):

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Jeffrey N. Pomerantz

Michael D. Warner (SBT 00792304) Steven W. Golden (SBT 24099681) 440 Louisiana Street, Suite 900 Houston, TX 77002

Telephone: (713) 691-9385 Facsimile: (713) 691-9407 <u>mwarner@pszjlaw.com</u> <u>sgolden@pszjlaw.com</u>

-and-

Jeffrey N. Pomerantz (admitted *pro hac vice*) Jeffrey W. Dulberg (admitted *pro hac vice*) 10100 Santa Monica Blvd., 13th Floor Los Angeles, CA 90067

Telephone: (310) 277-6910 Facsimile: (310) 201-0760 jpomerantz@pszjlaw.com jdulberg@pszjlaw.com

Former Counsel to the Debtors